

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Telecommunications Access Corporation	:	
	:	
	:	09-0182
Petition for Annual Line Charge	:	
Determination pursuant to 83 Ill. Adm. Code 755.500.	:	

ORDER

By the Commission:

I. Introduction

On March 31, 2009, the Illinois Telecommunications Access Corporation ("ITAC") filed with the Illinois Commerce Commission ("Commission") a verified Petition, pursuant to 83 Ill. Adm. Code Part 755, containing its 2009 annual line charge filing. ITAC requests that the Commission determine the charge per access line that will fund the programs mandated by Section 13-703 of the Public Utilities Act ("Act"), 220 ILCS 5/13-703.

Specifically, ITAC requests that the Commission enter an Order raising the line charge from the current level of six cents per subscriber line to eight cents a line; increasing the Centrex line charge from 1.2 cents per line to 1.6 cents per line; and, increase the PBX charge from 30 cents to 40 cents per PBX trunk. ITAC also requests that all carriers, be ordered to file new tariffs in compliance with the Commission's Order within 15 days. Pursuant to Section 755.510, ITAC requests that the Commission enter its Order without a hearing.

Commission Staff ("Staff") filed a Response to the Petition supporting the proposed line charges. No hearing was held in this matter and there are no contested issues. No Petitions to Intervene were filed.

II. ITAC's Petition and Applicable Regulatory Requirements

ITAC is a not-for-profit corporation formed by all Illinois local exchange carriers ("LECs") to implement the TTY and telebraille device distribution programs and the telecommunications relay service ("TRS") program, which are mandated by Section 13-703 of the Act. Concerning cost recovery for these programs, Section 13-703(c) provides:

The Commission shall establish a rate recovery mechanism, authorizing charges in an amount to be determined by the Commission for each line of a subscriber to allow telecommunications carriers providing local exchange service to recover costs as they are incurred under this Section.

The Commission initially set the line charge at the then statutory maximum of 3 cents per subscriber line and 0.3 cents per Centrex line. Docket 85-0502, Order, December 11, 1985. Effective January 1, 1989, the General Assembly amended Section 13-703(c) to remove the cap on the line charge. On October 2, 1991, in Docket 91-0141, the Commission increased the subscriber line charge from 3 cents to 11 cents and the Centrex rate from 0.3 cents to 1.1 cents. In Docket 91-0141, the Commission concluded that a simplified line charge adjustment mechanism should be implemented through a rulemaking proceeding. Accordingly, on March 25, 1993, in Docket 91-0587, the Commission adopted Subpart F of Section 755. That subpart, which became effective on March 31, 1993, established a simplified mechanism for determining an appropriate line charge under Section 13-703(c).

The amendments to Section 755 require ITAC to present an annual line charge filing containing various schedules for the projection period, the financial statements of ITAC, and a statement from an independent public accountant. Under Section 755.510, if the hearing is waived, the Commission must enter an Order within 45 days of ITAC's annual filing.

Since 1993, ITAC has made annual filings and the Commission has determined the line charge as required by Section 755, Subpart F. Most recently, by an Order entered on May 7, 2008, in Docket 08-0246, the Commission maintained the previous ITAC line charges of 6 cents per subscriber line, 1.2 cents per Centrex line, and 30 cents per PBX trunk.

ITAC projects total relay service expenses of \$3,553,230 for 2009, as compared to actual relay expenses of \$3,700,199 in 2008. The projected relay expense for 2009 is based on an estimate of the average call length applied to anticipated call volumes and contracted cost per minute amounts, for both standard telecommunications relay service and CapTel captioned relay service. The estimates of average call length are based on actual data from 2008. ITAC's 9 TRS expense projections reflect an estimated 22.4% decrease in traditional relay call volumes, offset by a small projected increase in the length of traditional relay calls and a projected increase of 17.9% in the volume of captioned telephone services.

Additionally, on December 17, 2003, in Docket 03-0357, the Commission amended Section 755 to, *inter alia*, require ITAC to implement a voucher program for distribution of assistive telecommunications equipment and permit ITAC to offer a wider range of equipment. Thus, ITAC projects 2009 capital expenditures of approximately \$997,000 to purchase TTYs, signalers and amplified telephones for the voucher

program. In addition, ITAC's 2009 projections reflect slightly increased administrative, distribution, and maintenance expenses, as a result of increased compensation for selection centers, and the continued growth of the amplified telephone and TTY voucher programs planned for 2009.

Also, as the Petition notes, the Federal Communications Commission ("FCC") required that all TRS be accessed *via* 7-1-1 by October, 2001. ITAC and its TRS vendor, Sprint, successfully implemented 7-1-1 access prior to the required date. As required by the FCC, ITAC's 2009 projections include educational and promotional expenses to continue to inform the public of the 7-1-1 service.

The line charge methodology of 83 Ill. Adm. Code 755.500 ensures, among other things that ITAC maintains a sufficient, but not excessive, cash balance. This cash balance provision of the Commission's rule is critical in light of the unique status of ITAC:

ITAC, unlike public utilities, has no retained earnings, and no alternative means of raising capital. Moreover, because public utilities regulated by this Commission charge per unit of service, greater-than-projected usage of utility services results in increased revenue as well as expenses. In contrast, the subscriber line charge, which is ITAC's principal funding source, does not produce increased revenue when usage increases.

In re: Establishment of a cost recovery mechanism for programs required by Section 13-703 of the Public Utilities Act, Docket 91-0587 (Oct. 21, 1992). Moreover, ITAC states in its Petition, it is important to recognize that year-to-year fluctuations in the level of the line charge are expected as a result of the mechanics of 83 Ill. Adm. Code 755.500. This is because the line charge mechanism insures a refund to telephone subscribers for amounts collected in prior years in excess of ITAC's expenses and cash balance ceiling. Likewise, the mechanism requires increases if projected revenues do not cover expenses and ensure that ITAC has an adequate cash balance. For 2009, the line charge mechanism utilizes ITAC's cash balance to maintain the 6-cent subscriber line charge, despite projected increases in capital, administration and distribution expenses and projected decreases in subscriber line charge revenue and investment income.

ITAC's Schedules A-1 through A-12, attached to the Petition, result in a determination that, under the projection assumptions utilized, the line charge required to fund the programs mandated by Section 13-703 of the Act for the period January 1, 2009 through December 31, 2009 shall be 8 cents per subscriber line. In Docket 03-0357, the Commission amended 83 Ill. Adm. Code 755.10, effective June 1, 2004, to provide that one subscriber line charge shall be applied for each five Centrex lines and five charges shall be applied for each PBX trunk. Accordingly, a charge of 1.6 cents should be assessed per Centrex line and 40 cents per PBX trunk. Also effective June 1, 2004, pursuant to 83 Ill. Adm. Code 755.10, the charge for other multi-channel technologies is stated in ITAC's tariff, Ill.C.C. No. 3, original page 3.1, which provides

that "charges for services provisioned by T-1 lines and other advanced services shall mirror the carrier's applications of 9-1-1 charges for bills issued on and after June 1, 2004. . ."

The Commission's Order in Docket 03-0357 amended Section 755.105 to require resellers of telecommunications services (as "resale" is defined in Section 13-211 of the Act) to collect the applicable monthly line charges from their customers and remit them to ITAC. Previously, until July 1, 2004, resellers could make contractual arrangements with LECs to fulfill their remittance obligations. Further, in Docket 03-0357, the Commission modified 755.105(a) so that all Illinois LECs would identify any applicable line charges on each customer's bill, effective July 1, 2004.

ITAC's Petition also includes its audited financial statements, as of December 31, 2008, as required by 83 Ill. Adm. Code 755.500(a)(1), its projected statement of financial position, projected statement of activities, projected statement of cash flows, and summary of significant projection assumptions and accounting policies for the projection period, as required by 83 Ill. Adm. Code 755.500(a)(2). As required by 83 Ill. Adm. Code 755.500(a)(4), The Petition also includes the written opinion of an independent accounting firm that ITAC's projection statement of financial position and statements of activities and cash flows comply with the guidelines for presentation of a projection established in the "Guide for Prospective Financial Information" by the American Institute of Certified Public Accountants and that ITAC's underlying assumptions provide a reasonable basis for management's projections (given the hypothetical assumptions used), as required by Section 755.500(a)(4).

Additionally, the Petition states that within ten days of its filing, ITAC will publish notice of the Petition in accordance with Section 755.515(a).

III. Potential Impact of New Technology on ITAC's Line Charge

In its Petition, ITAC points out that the line charge methodology of Section 755.500 was enacted 15 years ago. Since that time, ITAC has operated without requesting emergency or interim adjustments to the line charge (pursuant to Section 755.520), and without curtailing programs or services for budgetary reasons. During that period, the line charge has ranged from 3 cents to 15 cents per subscriber line, averaging 8.4 cents over the 15 years.

ITAC cautions, however, that the line charge could rise in the next few years, if the FCC decides to allocate some costs of new Internet-based relay services on the states. Currently, the FCC encourages relay providers to offer Video Relay Services ("VRS"), Internet Protocol ("IP") relay, and IP Captioned Telephone Relay Services ("IP CTS"). In each of these services, the user connects to a Communications Assistant through the Internet rather than the public switched telephone network ("PSTN"). The second leg of the relay service, from the Communications Assistant to the called party, travels over the PSTN. See In the Matter of Telecommunications Relay Services..., CG Docket No. 03-123, FCC 06-182 (1/11/07) ¶¶ 5, 6, 13, 14. ITAC states that all such

calls are presently compensated through the Interstate TRS Fund, which is administered by the National Exchange Carrier Association. These forms of TRS are presently not mandatory. However, the FCC stated in 2007 that it would revisit the cost recovery of Internet-based TRS, "including jurisdictional separations of costs," as well as whether such services should be mandatory. Id., ¶ 25 and fn. 80; see also In the matter of Telecommunications Relay Services, CG Docket No. 03-123, FCC 06-106 (7/20/06). ITAC notes that if the FCC determines that some of the costs of Internet-based TRS should be allocated to the states, the impact on ITAC's line charge could be significant. In addition, increased business usage of CapTel service could impact ITAC's line charge in the future.

V. Staff's Response

Staff filed its response to ITAC's Petition on April 9, 2009. Staff states that it has reviewed the Petition and supporting documentation and has conducted a field review of ITAC's records. Staff "finds no reason to contest" ITAC's proposed line charges. Staff proposes specific tariff language (set forth in Finding (8) below) for LECs to use when filing the revised tariffs that would be required after approval of the Petition.

In its Response, Staff proposed uniform tariff language to facilitate those carriers whose current tariff does not reflect the correct subscriber line charge, Centrex charge and PBX charge. The proposed language is as follows:

Pursuant to the Order dated May ____, 2009, of the Illinois Commerce Commission in Docket 09-0182, _____ Telephone Company will impose a supplemental charge of eight cents per month per line for all subscriber lines other than Centrex-type and PBX lines, a charge of 1.6 cents for each Centrex-type line, and a charge of 40 cents per PBX trunk effective with bills rendered on or after June 1, 2009 or at the beginning of the first cycle after June 1, 2009.

VI. Commission Analysis and Conclusion

ITAC's annual line charge filing is supported by the required schedules and properly utilizes a projection period of January 1, 2009 through December 31, 2009. Those schedules sustain ITAC's request for a subscriber line charge of 8 cents, a Centrex line charge of 1.6 cents, and a PBX trunk charge of 40 cents.

As requested by ITAC, its member LECs who have existing tariffs consistent with the amendments to Section 755 and the current line charges will not be required to file new tariffs. ITAC proposes that carriers should be directed to file a new tariff within 15 days of the date of this Order. The tariffs of all carriers should take effect June 1, 2009.

VII. Findings and Ordering Paragraphs

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the parties and the subject matter herein;
- (2) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (3) ITAC has complied with the requirements of 83 Ill. Adm. Code Part 755 Subpart 5, Line Charge Adjustment Mechanism;
- (4) the line charge under Section 13-703(c) of the Act shall be 8 cents per subscriber line, 1.6 cents per Centrex line, and 40 cents per PBX trunk; each of the foregoing charges should become effective on June 1, 2009;
- (5) each Illinois LEC shall be served with a copy of this Order;
- (6) any Illinois LEC with current tariffs that reflect the line charge amounts listed in (4) above shall not be required to file new tariffs;
- (7) any Illinois LEC whose current tariffs do not reflect the correct line charge amounts shall be directed to file, within 15 days of the date of this Order, and without further notice, a tariff that reflects the new line charges required by this Order; such tariffs should become effective by June 1, 2009; and
- (8) the following language proposed by Commission Staff should be used by each Illinois LEC when complying with Finding (7):

Pursuant to the Order dated May____, 2009, of the Illinois Commerce Commission in Docket 08-0246, _____ Telephone Company will impose a supplemental charge of eight cents per month per line for all subscriber lines other than Centrex-type and PBX lines, a charge of 1.6 cents for each Centrex-type line, and a charge of 40 cents per PBX trunk. These charges shall be effective with bills rendered on or after June 1, 2009 or at the beginning of the first cycle after June 1, 2009.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the relief requested in the Petition filed by the Illinois Telephone Access Corporation is granted and, pursuant to Section 13-703(c) of the Act, the line charge shall be

maintained at 8 cents per subscriber line and 1.6 cents per Centrex line, effective June 1, 2009.

IT IS FURTHER ORDERED that a charge of 40 cents shall be applied to each PBX trunk, effective June 1, 2009.

IT IS FURTHER ORDERED that a copy of this Order shall be served on all Illinois local exchange carriers by the Chief Clerk of the Commission and any local exchange carriers who have existing tariffs consistent with the current line charges shall not be required to file new tariffs.

IT IS FURTHER ORDERED that any local exchange carriers with tariffs that do not reflect the current line charges are hereby directed to file tariffs in compliance with this Order within 15 days of the date of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 13th day of May, 2009.

(SIGNED) CHARLES E. BOX

Chairman